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P A R L E M E N T E U R O P E E N

COMMISSION DES AFFAIRES ETRANGERES ET DE LA SECURITE

Sous-commission "Droits de l'homme"

Délégation pour les relations avec les pays membres de l'ANASE et la République de Corée (OIPA)

Communication aux membres

Objet : Timor oriental

Les membres trouveront en annexe, pour information, un exemplaire de la réponse d'Amnesty International au rapport provisoire élaboré par la commission d'enquête indonésienne sur les événements survenus au Timor oriental au mois de novembre 1991. Le texte est uniquement disponible dans la langue originale, l'Anglais.

DIRECTION GENERALE DES COMMISSIONS
ET DELEGATIONS

Annexe

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ANNEX

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INDONESIA/EAST TIMOR

Santa Cruz:

The Government Response

FEBRUARY 1992 **SUMMARY** **AI INDEX: ASA 21/03/92**

DISTR: SC/CO/GR

This report evaluates the Indonesian Government's response to the 12 November Santa Cruz massacre in East Timor. It concludes that the mandate and methods of work of the government-appointed National Commission of Inquiry were fatally flawed and that its findings are unacceptable. It finds other aspects of the government and military response to the massacre to have been inadequate and inappropriate; rather than preventing future human rights violations and ensuring that those responsible are brought to justice, the response has been accompanied by further violations against East Timorese. The report concludes with a set of recommendations to the Indonesian Government and to member states of the United Nations, for addressing the current human rights crisis in East Timor.

Amnesty International continues to urge the international community to ensure that a thorough and impartial investigation under UN auspices be conducted into the Santa Cruz massacre and its aftermath.

The National Commission of Inquiry

• The findings of the Commission of Inquiry give undue credence to military accounts of the incident while ignoring or misconstruing independent evidence, including eye-witness testimony, which contradicts the official version. Such evidence suggests that the actions of the security forces were not a spontaneous reaction to a riotous mob, but a planned military operation, conducted according to normal operating procedures.

• The report accuses East Timorese participants in the funeral procession of "provoking" the incident, while keeping criticism of police and military to the barest minimum. It suggests that the expression of political

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dissent may be a justification for security forces to use lethal force or other unlawful measures against civilians.

• The Commission did not obtain an accurate picture of the number or the identity of victims, nor did it seek to establish the cause of death in any instance. The seemingly arbitrary way in which the Commission arrived at the figure of "about 50" killed suggests that it may have been driven more by political expediency than investigative rigour or available evidence.

• The Commission did not meet the criteria of independence, impartiality, and credibility required by the United Nations' own Principles for the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions. One result was that East Timorese were afraid to testify before the Commission.

• Members of the Commission did not possess the necessary technical expertise to conduct an investigation which required a thorough search for mass burial sites, full exhumations and the performance of autopsies.

Other Aspects of the Government's Response

• Far from putting an end to human rights violations, the official reaction to the incident has been accompanied by the commission of further serious violations, including arrest for political reasons, torture, ill-treatment and extrajudicial executions.

• Not a single member of the security forces has been charged or brought before the courts for the Santa Cruz killings and subsequent human rights violations. Yet, more than 60 East Timorese have been imprisoned in connection with the incident; some or all of them may be prisoners of conscience.

• Since 12 November, government and military authorities have taken measures to ensure that witnesses, human rights activists and independent observers are not in a position to dispute the official version of events, and restrictions on access to East Timor have been tightened.

• The government and the Commission have wrongly portrayed the Santa Cruz massacre as an isolated incident, an aberration in an otherwise acceptable pattern of behaviour by the security forces. Neither the Commission nor the government has addressed the long-standing and continuing pattern of human rights violations in East Timor and Indonesia.

This report summarizes a 19-page document (6850 words), *Indonesia/East Timor - Santa Cruz: The Government Response* (AI Index: ASA 21/03/92), issued by Amnesty International

KEYWORDS:

in February 1992. Anyone wanting further details or to take action on this issue should consult the full document.

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INDONESIA / EAST TIMOR

Santa Cruz:

The Government Response

1. INTRODUCTION

This report evaluates the Indonesian Government's response to the 12 November Santa Cruz massacre in East Timor.[1] It concludes that the mandate and methods of work of the government-appointed National Commission of Inquiry were fatally flawed and that its findings are unacceptable. It finds other aspects of the government and military response to the massacre to have been inadequate and inappropriate. Rather than preventing future human rights violations and ensuring that those responsible are brought to justice, the response has contributed to further violations. The report concludes with a set of recommendations to the Indonesian Government and to member states of the United Nations, for addressing the current human rights crisis in East Timor.

The findings of the National Commission of Inquiry have done little to allay Amnesty International's original concern that the investigation lacked the credibility, impartiality and technical competence necessary to meet standards established in the United Nations Principles for the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions.[2] While the Commission

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[1] Previous Amnesty International documents have described the massacre and its aftermath in some detail. See Appendix I for a list of these documents.

[2] See Appendix II for the Conclusions of the National Commission of Inquiry's "Advance Report". Amnesty International's concern about the Commission was expressed in a number of public documents, including East Timor: After The Massacre (ASA 21/24/91, 21 November 1991), and in a letter to the United Nations Secretary General, Javier Pérez de Cuéllar, dated 27 November 1991.

has concluded that the number of victims was "*about 50*", or more than twice the figure claimed by military authorities, it has in most important respects accepted the military version of events, even where the weight of available forensic and eyewitness evidence clearly contradicts it. In Amnesty International's view, the Commission's acceptance of a higher casualty figure cannot be taken as proof of its credibility and independence, and should not divert attention from more fundamental questions about the behaviour of the security forces, and the government's responsibility for continuing human rights violations in East Timor and Indonesia.

Most shocking is the Commission's conclusion that it was the unarmed participants in the procession - through their alleged "*provocative belligerence and aggressive attitude*" - who were ultimately responsible for the Santa Cruz incident. Criticism of the military and police is kept to the barest minimum, effectively exonerating all but a few unnamed soldiers whose actions were said to have "*exceeded acceptable norms*". Moreover, the Commission insists that soldiers acted without orders, in spite of substantial evidence to the contrary. Eyewitness testimony and other evidence suggest strongly that the actions of the security forces were not a spontaneous reaction to a riotous mob, but a planned military operation, conducted according to normal operating procedures.

Follow-up measures ordered by President Suharto since the Commission's report was published have created the impression that the government is committed to seeing that such an incident is never repeated and ensuring the perpetrators are brought to justice. A number of senior military officers with responsibility for East Timor have been transferred and some military units moved out of the territory; a military council has been established to look into the incident; the President and other authorities have formally expressed their regret at the "*tragedy*". Yet, to date, no military or police official has been brought before the courts or otherwise held responsible for human rights violations committed in connection with the massacre. At the same time, the authorities have devoted considerable resources to the investigation and prosecution of the victims of the Santa Cruz incident and others who have protested against human rights violations in East Timor.

The human rights violations in East Timor have not stopped since the Santa Cruz massacre. Indeed, quite the contrary, the government's response to the massacre has been accompanied by an escalation of repression in East Timor. Since 12 November, hundreds of people suspected of participating in the procession to the Santa Cruz Cemetery

have been subjected to serious human rights violations. More than 60 people are currently facing trial on political charges in connection with the incident, of whom 18 are expected to be tried for subversion, which carries a maximum penalty of death. Those standing trial include East Timorese students in Jakarta and elsewhere in Indonesia imprisoned after peaceful protests against human rights violations in East Timor, or for attempting to disseminate information about the Santa Cruz massacre. There have also been reports of extrajudicial executions and "disappearances" subsequent to the killings of 12 November.

The Indonesian Government, the Commission, and some United Nations member states have wrongly portrayed the Santa Cruz massacre as an isolated incident, an aberration in an otherwise acceptable pattern of behaviour by the security forces. Amnesty International's information has consistently demonstrated a record of systematic and widespread violations of human rights by Indonesian security forces, including torture and ill-treatment, hundreds of "disappearances" and thousands of extrajudicial executions in East Timor and various parts of Indonesia. Neither the National Commission of Inquiry nor the government has addressed the problem of the long-standing and continuing pattern of human rights violations. There is nothing in the government's response to date that will ensure the future protection of human rights in East Timor.

To Amnesty International's knowledge, the Indonesian Government has never conducted an adequate inquiry into reported human rights violations in East Timor since it invaded the territory in 1975. In fact, as Amnesty International has repeatedly noted in its statements before the UN Special Committee on Decolonization, the government has preferred to dismiss or flatly deny all allegations of human rights violations, however well-documented, and to question the political motivation of those who report them. The Santa Cruz massacre has demonstrated that no matter how stridently or confidently they are advanced, the claims, denials, and explanations of Indonesian military and government authorities believed responsible for human rights violations simply cannot be accepted at face value; and it has highlighted the importance of establishing regular mechanisms for the thorough and impartial investigations into all allegations of human rights violations.

2. THE NATIONAL COMMISSION OF INQUIRY: A CRITIQUE

The nine-page preliminary report of the National Commission of Inquiry was published on 26 December 1991. In Amnesty International's view the Commission's findings, as well as its mandate and methods of work are fatally flawed. The Commission's findings give undue credence to military accounts of the incident while dismissing or misinterpreting independent evidence, including eyewitness testimony. While accepting that the number killed was greater than the official military figure of 19, in most important respects the Commission exonerates the security forces of responsibility for the killings and other violations. The Commission's conclusions instead incriminate the East Timorese "*instigators*" of the demonstration. The preliminary report suggests that the expression of political dissent may be a justification for Indonesian security forces to take unlawful measures against East Timorese citizens. None of these flaws is likely to be remedied with the publication of a final version of the report because, according to Foreign Minister Ali Alatas and a member of the Commission, the conclusions of the report will not be changed.

2.1 The Commission's Findings

The Commission's report says that "*about 50*" victims were killed in the Santa Cruz incident, more than twice the figure claimed by military authorities. The Commission says it accepted the figure of "*about 50*" killed because that was the number mentioned by most people. The report admits that estimates of the number killed "*varied from 50, 60 to over 100*", but offers no explanation for dismissing any of the higher estimates. It notes in passing that at least 90 people had been reported missing since the massacre, yet it does not seriously consider that some or all of that number may have been killed, and it draws no conclusion about the responsibility of the government in identifying them and establishing their whereabouts. The report, moreover, provides no information whatsoever on the identity of the 50 people it believes were killed, a shortcoming it blames on "*the careless handling of those who died*" by the military authorities.

The seemingly arbitrary way in which the figure of 50 was arrived at, suggests that the Commission may have been driven more by political expediency than investigative rigour or available evidence. The Commission was clearly under considerable pressure to produce a report to satisfy domestic and international critics, some of whom had threatened to suspend foreign aid if the government's inquiry was self-evidently lacking in credibility. A figure in excess of the official military figure of "*only 19*" killed was understood to be essential in meeting such criticism. In view of the overwhelming evidence that the number killed was far more than 19, for the Commission to conclude otherwise would have been virtually unthinkable. It should hardly be considered evidence of the Commission's impartiality or independence that it did so.

With respect to its description of the shooting at the Santa Cruz cemetery, the report describes two versions of events. One version, supported by independent eyewitness accounts, states that troops fired shots directly at the crowd without warning or provocation. The other, the military version, maintains that shots were fired "*after fighting erupted and an attempt was made to seize arms, accompanied by the tossing of a hand-grenade at the security forces by the crowd*". The Commission appears to have made little effort to assess the relative validity of these conflicting claims. The report's conclusion that the killings resulted from a "*spontaneous reaction by soldiers...to protect themselves*" suggests that the Commission accepted the military version of events. Amnesty International reiterates that it has found no independent evidence to support this account of the massacre.

On the contrary, numerous and detailed eyewitness accounts by both East Timorese and foreign observers present during the shooting clearly and consistently state that the demonstration was peaceful and that troops acted in an organized manner and fired without warning directly into the crowd. Eyewitnesses have described how soldiers lined up near the entrance to the cemetery 10 or 12 abreast, then shot for several minutes into the crowd. Film footage supports eyewitness testimony that the security forces moved systematically and deliberately through the cemetery and vicinity beating or stabbing those discovered there.

The Commission's report effectively ignores substantive evidence which supports eyewitness testimony regarding the

systematic nature of security force actions during and after the incident. For example, the Commission's report reveals that of the 91 wounded admitted to the military hospital, some 14 had suffered stab wounds and another 35 wounds caused by blunt instruments. This evidence corroborates testimony that police and soldiers systematically beat and stabbed unarmed civilians and that they continued to commit violations well after the first firing incident. However, the Commission fails to draw any conclusion from this evidence about the behaviour of the security forces. The report refers only in passing to other testimony of torture, ill-treatment, disappearances and killings after 12 November.

The Commission also maintains, against the evidence, that the soldiers acted "*outside any control or command*" and concludes that the incident was "*clearly not an act ordered by or reflecting the policy of the Government or of the Armed Forces*". Yet, available evidence, including the testimony of eyewitnesses, indicates that officers of the powerful military intelligence apparatus were in the vicinity of the cemetery and were actively involved in the operation. East Timor's Governor, Mario V. Carrascalao, has alleged that right-wing paramilitary forces, known to operate with the support of military intelligence, were deployed at the cemetery and that they were responsible for some of the shooting and other human rights violations.

Significantly, the Commission's report makes no reference to the historical pattern of human rights violations in the territory or in Indonesia. If it had done so it would have had to acknowledge that the use of lethal force by security forces has become a standard operating procedure in dealing with expressions of political dissent. Only by treating the Santa Cruz massacre as an isolated incident, and ignoring all evidence of past patterns of violations, is it able to sustain the conclusion that the killings did not reflect government or military policy.

The Commission keeps its criticism of the security forces to a minimum, but devotes considerable space and energy to proving that "*anti-integrationist*" elements, through their "*premeditated provocation*", were ultimately responsible for the incident. This was precisely the interpretation offered by Armed Forces Commander, General Try Sutrisno, several weeks before the Commission produced its report. While the Commission may be correct in saying that opposition to Indonesian rule lay at the heart of the

12 November procession, it is patently untrue that members of the procession were responsible for the incident - that is, the killings and other human rights violations.

By arguing that the demonstrators were responsible for the incident, the Commission implies that the security forces were justified in using lethal force against a crowd of civilians because they were "*provoked*". Yet, with the exception of the alleged stabbing of two soldiers in disputed circumstances, the "*premeditated provocation*" which is described in the report was in fact the open and non-violent expression of political opinion in favour of East Timor's independence; a legitimate activity protected in international human rights law. For example, the report says the demonstrators "...*consciously exhibited Fretilin and Falintil flags, pictures of Fretilin/SDP leader Xanana, and banners, and chanted anti-integrationist yells and insults at the members of the security apparatus*". Thus, the Commission appears to accept the view of government and military authorities that, because the expression of political opposition is itself deemed unlawful, it justifies the use of lethal force by members of the security forces.

The report's concluding statement that "*action must be taken against all those involved in the 12 November 1991 incident in Dili and suspected of having violated the law*" left it unclear whether it believed members of the security forces should be brought to justice. However, the Commission's conclusion about the responsibility of the demonstrators for provoking the incident, implies that legal action should be taken against them rather than members of the security forces. This would appear to be a view shared by government and military authorities and has been borne out by their subsequent actions.

2.2 The Commission's Mandate and Methods of Work

During its three-week visit to East Timor, the Commission held an apparently impressive range of meetings. It met key government and military officials, including Governor Mario V. Carrascalao, and the then KOLAKOPS (Operational Command for East Timor) Commander Brigadier General R.S. Warouw. It also met briefly with the Roman Catholic Archbishop of Dili, Monsignor Belo, and interviewed 132 eyewitnesses.

Yet there were conspicuous shortcomings in the evidence gathered and the manner of gathering it. Most obviously, the Commission did not interview any of the five foreign-based eyewitnesses to the massacre, whose testimony contradicted official military claims. In fact, most of the 132 eyewitnesses interviewed appear to have been the wounded held at the military hospital, the political detainees held at the police station (POLWIL), and a number of police and military personnel. Few, if any, of these interviews could have been conducted in the conditions of confidentiality as required by the UN's Principles for the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions. The Commission was accompanied at virtually all times by military and police personnel. Interviews in the military hospital and in police or military detention centres could hardly have been conducted in conditions of secrecy and confidentiality. In any case, as the Commission Chairman told the press in early December, his meetings with the detainees had lasted only a few minutes.

Members of the Commission did not possess the necessary technical expertise to conduct an investigation which, if genuinely thorough, required a systematic search for mass burial sites, full exhumations of graves and the performance of autopsies. Partly for this reason, and partly due to obstruction by military authorities, the Commission did not obtain an accurate picture of the number or the identity of victims, nor did it seek to establish the cause of death in any instance. The Commission made only a perfunctory attempt to locate mass graves where scores of people were alleged to have been buried. In fact, the Commission discovered only 19 graves - those already acknowledged by military authorities - and exhumed only one, during its last day in Dili. The body was briefly observed by members of the Commission, then immediately reburied. Oddly, the Commission reports that the victim was "*completely dressed in accordance with Catholic tradition*", as if the sole objective of the investigation were to ensure that religious sensitivities had been respected by the security forces. The Commission did not explain why it had not exhumed any of the other graves.

Perhaps the most intractable weakness of the Commission was that it was not perceived within East Timor as an impartial body, but as a representative of the Indonesian Government and the military. It did not include any delegate of genuinely independent or impartial stature. The

members were representatives from: the Ministries of Home Affairs, Foreign Affairs, and Justice, and also from Armed Forces Headquarters, the President's Supreme Advisory Council and the People's Representative Assembly, a body which has no authority to bring the government or the military to account. The Commission was headed by Supreme Court Judge and former military officer, Muhammad Djaelani SH. Like other courts in Indonesia, the Supreme Court has rarely if ever challenged the position of the government or the military, particularly in matters relating to politics or national security.

Many East Timorese were inevitably hesitant to testify before the Commission; it was almost inconceivable that the testimony and information it gathered could be complete and accurate. Serious doubts about the Commission's ability to conduct a full and thorough investigation were confirmed by its own admission that it had "*faced obstacles*" because witnesses were unwilling to testify for fear of being "*incriminated*" in the 12 November incident. On the eve of his departure from Dili, the Commission's Chairman, Djaelani, told the press: "*Our main problem was that [the East Timorese] were all too afraid to talk*". This statement corroborated reports that military surveillance and intimidation intensified in the wake of the Santa Cruz massacre.

Finally, the Commission's mandate evidently did not include the investigation of police or military responsibility for the killings and other human rights violations. Nor did it make any specific recommendations about who should face charges. These crucial tasks were left to two military investigation teams, whose precise terms of reference and findings have not been, and are not likely to be, made public.[3] Thus, while the Commission report recommended that legal action should be taken against those "*involved*" in the incident, the power to establish who was responsible was delegated to military authorities.

[3] An internal military investigation, headed by the Deputy Chief of Strategic Intelligence, Major General Arie Sudewo, began in November, before the National Commission of Inquiry arrived in Dili. A second military investigation team, the Honorary Military Council (Dewan Kehormatan Militer) established after the Commission submitted its preliminary report to the President, began its work in January 1992.

3. OTHER ASPECTS OF THE GOVERNMENT RESPONSE

The National Commission of Inquiry was only one element of the government's response to the Santa Cruz massacre. Shortly after the Commission submitted its preliminary report, President Suharto ordered a number of follow-up measures. Several military officers with responsibility for East Timor were transferred, including the Region IX Commander, Major General Sintong Panjaitan and the head of the Operational Command for East Timor (KOLAKOPS), Brigadier General Rudolf Warouw. Army Chief of Staff, General Edi Sudradjat, was ordered to set up an Honorary Military Council (Dewan Kehormatan Militer), which, according to a government press release, was to "*discuss the necessary measures to be taken in regard to the incident*". Armed Forces Commander, General Try Sutrisno, was asked to clarify the fate of those reported missing. The President directed the Attorney General to take all necessary steps against those who planned and took part in the "*riot*" at Santa Cruz and directed the Minister of Home Affairs to assess the functioning of the civilian government in East Timor in light of the 12 November incident.

Like the establishment of the Commission of Inquiry these initiatives appeared to reflect genuine concern about the massacre and its aftermath. However, there were clear indications that the government's actions were aimed principally at putting an end to political opposition in East Timor and satisfying domestic and international critics that something was being done. The attitude of military authorities was captured by General Try Sutrisno, who said in December: "*Once the investigation mission is accomplished, we will wipe out the separatist elements who have tainted the government's dignity.*"

Through their actions and statements, government and military officials have obstructed the course of investigations into the massacre, and have deliberately prevented human rights monitoring and reporting. Far from seeking to put an end to violations, the official reaction to the incident has been accompanied by the commission of further serious violations against East Timorese. There are also serious questions about the sincerity and commitment of government and military authorities in ensuring that those responsible for human rights violations will be brought to justice. Few if any of the follow-up measures ordered by the President have this objective. While more

than 60 East Timorese now face trial on political charges in connection with the incident, not a single member of the security forces has been charged or brought before the courts for the killings and other human rights violations on 12 November and thereafter. Finally, Government and military authorities have wrongly portrayed the Santa Cruz massacre as an isolated incident and have made no effort to address a long-standing pattern of violations in East Timor and Indonesia in a systematic way.

3.1 Obstructing Investigations and Restricting Human Rights Monitoring

For nearly two weeks after the massacre, representatives of the International Committee of the Red Cross (ICRC) were prevented from speaking privately to political prisoners and the scores of the wounded held under guard at the military hospital in Dili. The authorities said that access would be granted only after interrogations had been completed, a condition the ICRC described as "*unacceptable*". Military authorities also prevented Professor Peter Kooijmans, the United Nations Special Rapporteur on Torture who was in Dili at the time of the incident, from visiting the wounded on 13 November. Visits by relatives of detainees and wounded were also prevented, thereby giving rise to further anxiety and fear about their fate.

The authorities also hindered efforts to establish an accurate count of the number and the identities of the victims. They admitted that the bodies of many who died at Santa Cruz were immediately buried at an abandoned graveyard outside Dili. Military authorities apparently made no effort to identify any of those buried, while the hasty disposal of the bodies virtually precluded the performance of proper post-mortem examinations or forensic tests. Even before the Commission began its investigations, government and military authorities had insisted that only 19 people died, flatly denying all eyewitness and circumstantial evidence to the contrary.

Government and military authorities have taken measures to ensure that witnesses, human rights activists and independent observers are not in a position to dispute the official version of events. Some witnesses are said to have been killed and scores have been detained. Among those arrested in recent weeks are political activists, some of

them witnesses to the Santa Cruz incident, and people who had been involved in monitoring the human rights situation in East Timor.

Non-governmental organizations, particularly those involved in human rights monitoring, have been threatened with legal action by government Ministers. In December, the Coordinating Minister for Political and Security Affairs, Sudomo, accused some organizations of "...*using foreign funding for anti-government activities*" and asked rhetorically: "*Doesn't this amount to helping foreigners to create chaos in our national stability?*" In mid-December, the military commander for East Timor announced that demonstrations had been banned, explaining that past demonstrations had been "*aimed at undermining the authority of the government*". Three journalists of the weekly *Jakarta Jakarta* were dismissed in January after the paper's publisher received an official warning from the authorities for publishing the testimonies of 12 East Timorese who witnessed the massacre. Other Indonesian papers have been formally warned not to print "*tendentious*" or "*speculative*" stories.

Restrictions on access to and reporting about East Timor by foreigners have been tightened since the Santa Cruz massacre because of the government's allegation that visits by outsiders have been responsible for encouraging "*anti-Indonesia*" activities. Two key eyewitnesses, US journalists Amy Goodman and Alan Nairn, whose testimony contradicts the military version of events in almost every important respect, have been placed on the governments official black-list, which includes some 17,000 names. Like dozens of foreign journalists barred from entering East Timor and Indonesia, they were blacklisted because, in the words of one government official, "...*they are considered to be dangerous to the safety and security of the nation.*" A number of foreigners judged by military intelligence agents to be engaging in "*suspicious*" or "*political*" behaviour, have been deported.

In Amnesty International's view, these and other restrictions highlight the need for an immediate and impartial investigation under UN auspices as well as the urgent need to establish means for ensuring the continued monitoring and protection of human rights in the territory.

3.2 Human Rights Violations After the Massacre

Recent information obtained by Amnesty International indicates that the security forces have used the investigation into the Santa Cruz massacre as an opportunity for intimidating and imprisoning suspected opponents of Indonesian rule in East Timor. Scores of political activists, including many young people and Catholic priests, continue to be subjected to political imprisonment, death threats and beatings. Dozens are reported to have been killed in extrajudicial executions since the 12 November massacre and, by the government's own estimate, about 90 have "disappeared".

More than 60 of those detained in East Timor and Indonesia in connection with the incident are currently facing charges, 18 of them for subversion which carries a maximum penalty of death.[4] Amnesty International believes that some or all may be prisoners of conscience. Past practice has shown that political trials in Indonesia and East Timor fall far short of international standards of fairness.

At least 40 people, most of them accused of participating in the 12 November procession, remain in detention in Dili and others may be held in detention centres in other parts of the territory. The authorities have said that 14 of them will be charged with subversion and that other political detainees will face lesser political or criminal charges. They include three East Timorese civil servants charged with leaking military secrets to a foreign power, whose trials began in late January. They were charged under Article 112 of the Indonesian Criminal Code, which carries a maximum penalty of seven years in jail. Amnesty International has serious doubts about the fairness of those trials.

In Jakarta, 22 East Timorese students remain in detention following arrests during a peaceful protest about the Santa Cruz massacre, or for disseminating information about the human rights situation in East Timor. Most have been held incommunicado for varying lengths of time and some are believed to have been tortured or ill-treated. Four of the 22 have reportedly been charged with

[4] See Appendix III for a list of the names of those known to be held in detention in Dili, Jakarta and elsewhere in Indonesia.

subversion. The remaining 18 are believed to have been charged under Articles 154 and 155 of the Indonesian Criminal Code, which define "*expressing feelings of hostility, hatred or contempt*" toward the Indonesian Government as a criminal offence. Three East Timorese university students detained in Denpasar since late November for their non-violent political and human rights activities, may also be tried.

3.3 A Long-term Pattern of Violations

The Santa Cruz massacre cannot sensibly be viewed as an isolated incident or as an aberration in an otherwise acceptable human rights situation. Since its invasion of the territory in 1975, Indonesian government forces have been responsible for gross and systematic violations of human rights. Amnesty International has repeatedly expressed concern at the widespread occurrence of arbitrary imprisonment, torture, extrajudicial execution and "disappearance" in the territory. For several years, Amnesty International has presented an annual statement of its concerns before the UN Special Committee on Decolonization. The organization's August 1991 statement noted a worsening pattern of political imprisonment and torture. It also reported the killing of at least 30 people during the previous year and hundreds of unresolved cases of "disappearance".

Amnesty International also has serious human rights concerns in Indonesia itself. Hundreds of people were alleged to have been extrajudicially executed by government forces in Aceh in 1991, bringing the total killed in the province since 1989 to over 2,000. More than 150 prisoners of conscience - including university students, alleged communists, Muslim activists and suspected sympathizers of secessionist movements in Aceh and Irian Jaya - are serving lengthy sentences for alleged subversion. Like more than 200 other political prisoners convicted in previous years, they were sentenced after trials which did not meet internationally recognized standards of fairness. Hundreds of people were detained for political reasons in Aceh and North Sumatra; many were held incommunicado for periods up to several months before being released without charge. There were persistent reports of torture and ill-treatment of political detainees and criminal suspects, some of whom reportedly died as a result. Four people were sentenced to death and one political prisoner was executed while seven

other political prisoners remained in imminent danger of execution. In spite of repeated requests, Amnesty International has never been permitted to visit East Timor; it has been nearly 15 years since the organization was permitted to visit Indonesia.

4. AMNESTY INTERNATIONAL AND THE UNITED NATIONS

Reports of continuing human rights violations more than 16 years after Indonesia invaded East Timor are cause for serious concern. In Amnesty International's view, they require an immediate and firm response from the international community and in particular from the United Nations. Amnesty International believes that the international community has a special responsibility to address the human rights crisis in East Timor. Accordingly, it has written to UN bodies and various UN member states outlining its human rights concerns and urging that a prompt and impartial international investigation be conducted into the Santa Cruz massacre and its aftermath.

On 27 November 1991 Amnesty International wrote to the then UN Secretary-General, Javier Pérez de Cuéllar, expressing grave concern about the Santa Cruz massacre and raising doubts about the adequacy of any Indonesian Government investigation. In that letter, as in various public documents, Amnesty International recommended the establishment of an independent international inquiry under UN auspices. On the same day Amnesty International wrote to the Indonesian Government to urge its cooperation with such an investigation.

The UN Secretary-General announced on 30 November 1991 that he intended to nominate Amos Wako, the UN Special Rapporteur on Summary or Arbitrary Executions, as his special envoy to go to Indonesia in connection with the killings. On 5 December Amnesty International wrote to the UN Under-Secretary-General for Human Rights, Jan Martenson, urging that any UN-sponsored inquiry be carried out in accordance with the UN's own Principles for the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions. On 17 January 1992 Amnesty International wrote to the new UN Secretary General, Dr Boutros Boutros-Ghali, reiterating its concern about the Indonesian Government investigation and urging him to take all possible steps to ensure that an international investigation would be carried out expeditiously. On 23

January Amnesty International representatives met Mr Amos Wako to discuss the subject of an inquiry under UN auspices.

In January 1992 Indonesian Foreign Minister Ali Alatas said that the government would be willing to receive a UN envoy to discuss the Santa Cruz incident, but that it would "*reject*" a "*special human rights team to probe the Dili incident*". "*There is a special procedure for that, through the UN Human Rights Commission or the UN body itself, and even if it is decided one should be sent, the host nation has the right to say yes or no.*"

Amnesty International believes that any visit undertaken to Indonesia by a special UN envoy in this regard would be appropriate and useful only insofar as it served to establish the terms of reference and logistics for a full and independent international inquiry. The organization continues to urge the international community to ensure that a thorough and impartial investigation under UN auspices and in conformity with the UN's Principles..., be conducted into the Santa Cruz massacre and its aftermath.

4.1 Amnesty International's Recommendations

In view of the shortcomings of the Commission's findings, the inadequacy of the government's response, and reports of continuing human rights violations in East Timor, Amnesty International believes that the need for an international and impartial investigation into the Santa Cruz massacre and its aftermath is an urgent one. Amnesty International also believes that additional steps must be taken to address the human rights crisis in East Timor. Amnesty International therefore offers the following recommendations which, if implemented, it believes would contribute toward the future protection of human rights in East Timor and Indonesia.

Amnesty International urges the Indonesian Government to:

- Cooperate fully with all UN human rights initiatives, including an international investigation of the Santa Cruz massacre and its aftermath.

- Bring promptly to justice all members of the security forces responsible for human rights violations, in particular those committed during and after the Santa Cruz massacre;

- Permit the free and regular monitoring of human rights in East Timor and Indonesia by domestic and international human rights organizations;

- Welcome international trial observers at political trials, in particular those of East Timorese arrested in connection with the Santa Cruz massacre;

- Release immediately all those imprisoned solely for their non-violent political activities or beliefs;

Amnesty International urges the UN Commission on Human Rights to:

- Seek a full report to the UN Commission on Human Rights by the UN Secretary-General in the event that he sends an emissary Indonesia and East Timor to look into the Santa Cruz massacre and its aftermath;

- Seek a systematic follow up through the UN Commission on Human Rights to the January 1992 report of the Special Rapporteur on Torture on his visit to Indonesia and East Timor;

- Establish effective means whereby the regular monitoring of the human rights situation in Indonesia and East Timor under UN auspices can be assured.

APPENDIX I

AMNESTY INTERNATIONAL DOCUMENTS ON THE SANTA CRUZ MASSACRE AND ITS AFTERMATH

East Timor: The Santa Cruz Massacre, 14 November 1991 (ASA 21/23/91)

Indonesia/East Timor: AI Appalled at Massacre, Calls for Impartial Inquiry, Press Statement, 14 November 1991 (ASA 21/21/91)

East Timor: After the Massacre, 21 November 1991 (ASA 21/24/91)

Indonesia/East Timor: AI Urges Rigorous Standards for International Inquiry into Massacre, Press statement, 3 December 1991 (ASA 21/WU 03/91)

East Timor: Violations Continue and Doubts Remain over Official Inquiry, Press statement, 26 December 1991

Following the massacre **Urgent Action** appeals were issued on behalf of dozens of East Timorese students and others arrested in Dili, Jakarta, Bali and elsewhere in Indonesia. Some of the arrests occurred during peaceful protests against human rights violations in East Timor. Others were arrested after disseminating information about the massacre.

The Urgent Actions expressed concern that those detained were prisoners of conscience, that many were held incommunicado and that some were reportedly tortured. Appeals were issued on the following dates:

12 November 1991 (ASA 21/18/91)
22 November 1991 (ASA 21/26/91)
29 November 1991 (ASA 21/28/91)
10 December 1991 (ASA 21/29/91)

3 January 1992 (ASA 21/01/92)
9 January 1992 (ASA 21/02/92)

For further information on human rights violations in East Timor, see ***East Timor: Amnesty International Statement to the United Nations Special Committee on Decolonization, August 1991*** (ASA 21/14/91)

APPENDIX II

ADVANCE REPORT OF THE NATIONAL COMMISSION OF INQUIRY INTO 12 NOVEMBER 1991 INCIDENT IN DILI - EAST TIMOR

Conclusions

The Commission has strong reasons and grounds to arrive at the following conclusions:

1. The 12 November 1991 incident in Dili is the culmination of a series of earlier demonstrations/incidents perpetrated by the anti-integration group/Fretilin SDP.

   The Fretilin SDP, which are being increasingly isolated, have shifted their mode of operations from rural guerrilla to urban guerrilla, thereby abusively capitalising on the development policy in East Timor based upon affection and prosperity and taking advantage of the situation, condition as well as the restive mood among the young people to instigate them to oppose integration as well as to attract world attention to their existence.

2. The 12 November 1991 Incident in Dili which caused a number of deaths and other casualties was clearly not an act ordered by or reflecting the policy of the Government of the Armed Forces, be it in the Capital or in the Province of East Timor. The 12 November 1991 Incident was essentially a tragedy which should be deeply regretted.

3. The 12 November 1991 demonstration in Dili showed elements of pre-meditated provocation by a group of anti-integration/Fretilin SDP and was not an orderly and peaceful procession dedicated to commemorate the death of Sebastiao Gomes.

4. The demonstrators, who largely consisted of young people have acted belligerently, emotionally and destructively, partly as a result of agitations by the anti integration group/Fretilin SDP by whom they have been influenced for quite some time. Furthermore, they consciously exhibited Fretilin and Falintil flags, pictures of Fretilin SDP leader Xanana and banners and chanted anti-integration yells and insults at the members of the security apparatus.

5. A number of foreigners took an active part in that demonstration.

6. As the tense atmosphere reached a boiling point, started by the stabbing of an Armed Forces officer and the wounding of a private, and aggravated by the provocative belligerence and aggressive attitude assumed by the crowd which was perceived by the security personnel as posing a threat to their arms and to their safety, a spontaneous reaction took place among the security personnel to defend themselves, without command, resulting in the excessive shooting at the demonstrators, causing deaths and wounded. At the same time, another group of unorganised security personnel, acting outside any control or command, also fired shots and committed beating, causing more casualties.

7. In the handling of the riotous condition during 12 November 1991 incident, despite the presence of riot-control units, the Commission did not observe the optimal implementation of proper riot-control procedures. The actions of a number of security personnel exceeded acceptable norms and led to the casualties, be it in terms of deaths, gunshots wounds, stabbing wounds, or wounds by blunt instrument. Although the casualty toll until now was set at 19 dead and 91 wounded, the Commission feels that there are sufficiently strong grounds to conclude that the death casualties totalled about 50 while the wounded exceeded 91.

8. There was careless handling of those who died, because although the visum et repertums were performed the deceased were not properly identified. Little opportunity was given to the families/friends of the victims to identify the bodies.

9. The Commission is of the view that in order to uphold justice, action must be taken against all who were involved in the 12 November 1991 Incident in Dili and suspected of having violated the law, and they must be brought to trial in accordance with the Rule of Law, Pancasila and the 1945 Constitution upon which the Republic of Indonesia is based.

Epilogue

In undertaking its task, the NCI received full support from all sides, be it from the Government, the Armed Forces, Church Officials and community leaders. It has to acknowledge, however, that the NCI faced obstacles because a number of prospective witnesses were not willing to give their account of the event because of doubt and concern that they would be directly incriminated in the 12 November 1991 Incident in Dili, or out of fear they would be regarded as belonging to the anti integration group.

Jakarta, 26 December 1991.

National Commission of Inquiry

M Djaelani	Head/Member	(signed)
Ben Mang Reng Say	Member	(signed)
Clementino Dos Reis Amaral	Member	(signed)
Harisoegiman	Member	(signed)
Hadi A. Wayarabi Alhadar	Member	(signed)
Anto Sujata	Member	(signed)
Sumitro	Member	(signed)

APPENDIX III

INDONESIA/EAST TIMOR
POLITICAL PRISONERS HELD IN CONNECTION WITH THE SANTA CRUZ MASSACRE
DILI, EAST TIMOR

Afonso Rangel*
Aleixo da Silva Gama
Aleixo Lay
Amarao de Araujo*
António Baptista Sequeira
António Belo
Augusto Felipe Gama Xavier
Basílio Francisco Bento
Boby Xavier
Bonifácio Magno
Bonifácio Barreto
Carlos dos Santos Lemos
Domingos Joaquim Pereira
Eusébio Pinto Pedroso
Felismina dos Santos Conseiçao*
Fernando Tilman
Filomeno da Silva Ferreira
Filomeno Gomez
Francisco Miranda Branco
Francisco Guterres
Gregório da Cunha Saldanha**
Jacinto das Neves Raimundo Alves
Jacob da Silva
Janio Ferdinando
Januário Gomez
Joanico dos Santos
Joao dos Santos
João Pereira
José Francisco da Costa
José Barreto Marques
José Felipe
Juvêncio de Jesus Martins
Lourenço Rodrigues Pereira
Manuel Eduardo dos Santos
Marcia da Graça
Mário Abel
Matias Gouveia Duarte
Renilde Guterres Corte Real
Saturnino da Costa Belo
Simplicio de Deus

JAKARTA

Agapito Cardoso
Antonio Lopez**
Antonio Soares
Avelino Maria Coelho da Silva
Benevides Cabral
Domingos Barreto
Egas Quintao Monteiro

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Fausto Bernardino
Felipe da Silva
Fernando de Araujo**
Franciso Vasco Ramos
Gregorio de Araujo**
Ilidio da Costa
Joao Sarmento
Joao "Travolta"
Joao Freitas da Camara**
Jose Luis de Oliveira
Jose Maria Belo
Mario Canelas
Metodio Moniz
Sergio Dias Quintao
Virgilio

DENPASAR, BALI

Antonio Matos
Clemente Soares
Jose Pompeia Saldanha Ribeiro

* Trial began in Dili in January 1992; charged with passing confidential military documents abroad.
** Reportedly charged with subversion.

NB Several other students are believed to be detained in Malang, Salatiga and Yogyakarta but their names have not been made public by the Indonesian authorities.